



# THE ATTORNEY GENERAL OF TEXAS

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February 25, 1969

Honorable J. W. Edgar  
Commissioner of Education  
Texas Education Agency  
201 East 11th Street  
Austin, Texas 78701

Opinion No. M-344

Re: Territorial limits of  
the Burnet Independent  
School District

Dear Dr. Edgar:

In your recent request for an official opinion from this Department you have submitted the following facts:

1. Burnet Independent School District is a county-line school district having territory in Burnet and Llano counties. Briggs Independent School District is also a county-line school district having territory in Burnet and Williamson Counties.
2. On August 16, 1968, the Burnet County Board of School Trustees annexed the Briggs Independent School District to Burnet Independent School District pursuant to the provisions of Article 2922a, Vernon's Civil Statutes.
3. On August 20, 1968, the Board of Trustees of the Briggs Independent School District appealed the order of the Burnet County Board to the Commissioner of Education as authorized by Article 2686, Vernon's Civil Statutes. By order of September 17, 1968, the Commissioner of Education sustained the action of the Burnet County board. The Commissioner's order was not appealed.
4. The Llano County Board of School Trustees approved the annexation by the Burnet County board on August 23, 1968.
5. The Williamson County Board of School Trustees refused to approve the annexation of Briggs Independent School District to the Burnet

Independent School District. The refusal to approve the annexation was appealed to the Commissioner of Education by the Burnet County board. The Commissioner of Education ruled that the annexation was valid under Article 2922a, and no appeal was perfected from this order; that the refusal of the School Trustees of Williamson County constituted an abuse of discretion.

From the facts submitted, it appears that the annexation is authorized by virtue of the provisions of Article 2922a-2922i, Vernon's Civil Statutes. See also State v. School of Trustees of Shelby County, 150 Tex. 238, 239 S.W.2d 777 (1951). Parties who are aggrieved by acts of County Boards of School Trustees may appeal to the Commissioner of Education and through the judicial system. Article 2686, V.C.S., Cook v. Neill, 163 Tex. 49, 352 S.W.2d 258 (1961). Under the submitted facts, all parties who were aggrieved by the actions of the various boards elected to appeal to the Commissioner of Education, who upheld the annexation of Briggs Independent School District to the Burnet Independent School District. No appeals were perfected from the orders of the Commissioner, and we accordingly hold that the annexation is valid.

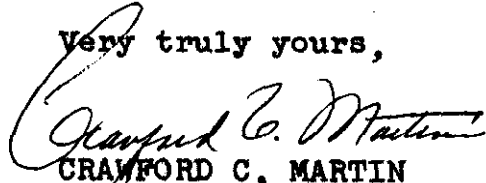
In view of the foregoing, the holdings in such cases as County School Trustees v. Leon Independent School District, 336 S.W.2d 809 (Tex. Civ. App. 1960, no writ), also in 328 S.W.2d 928 (Tex. Civ. App. 1959, no writ) and Lorena Ind. Sch. Dist. v. Rosenthal Com.Sch. Dist., 421 S.W.2d 491 (Tex. Civ. App. 1967, error ref. n.r.e.), with which you are concerned, are not applicable to the factual situation here presented, and the law to be applied thereto. In that line of cases, no action of concurrence of the proposed annexation had been taken by the trustees of one of the school districts affected. Consequently the orders of annexation and transfer were invalid. In the situation now before us, the non-concurrence of the Williamson County Board of School Trustees was appealed and the Commissioner of Education reversed the action and ordered concurrence. This became final when no appeal was taken therefrom. Insofar as the Williamson County Board had the right to refuse concurrence, the State Commissioner was empowered to substitute its order of concurrence in lieu thereof upon finding an abuse of discretion by the Williamson County Board. This was one of the holdings in the Rosenthal case, supra.

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S U M M A R Y

The annexation of Briggs Independent School District by the Burnet Independent School District is valid.

Very truly yours,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

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APPROVED:  
OPINION COMMITTEE

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